

## CALIFORNIA COASTAL COMMISSION

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# Thu 9b

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 Staff: GC-SD  
 Staff Report: 12/23/05  
 Hearing Date: 1/11-13/06

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-88-535-A4

Applicant: Dan Stone

**Original**

Description: Demolish existing residence and construct two approximately 3,500 sq. ft., three bedroom, single-family residences on two vacant lots totaling 1.44 acres. Also proposed is a fee dedication of the wetlands portion of the parcels.

**Proposed**

Amendment: Request to amend the original permit to allow for the construction of a deck that includes an approximately 42-inch high rail surrounding the deck within the open space deed restricted area. Deck will be constructed on three existing approximately 18-ft. high concrete pilings.

Site: 2512 San Elijo Avenue, Cardiff, Encinitas, San Diego County.  
 APN 261-190-30

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**STAFF NOTES:**

**Summary of Staff's Preliminary Recommendation:** Staff is recommending approval of the request to allow for the construction of a deck within the previously required open space area. The primary issues raised by the proposed development relate to protection of wetlands and scenic visual resources. The subject site is on a hillside adjacent to and overlooking San Elijo Lagoon. The original coastal development permit approved by the Commission prior to certification of the City's LCP required that an open space area between the residences and the nearby wetlands be deed restricted to prohibit development from occurring within the area as a protective buffer between the residences and the nearby wetlands and lagoon resources. The Department of Fish and Game has

reviewed the project and determined that a lesser buffer resulting from the deck's construction will be sufficient to protect the nearby wetlands. In addition, the original permit required that effective landscape screening of the homes be installed along the southern perimeter of the homes and that the area within the open space be planted with native species and that non-native, invasive plants be removed. This landscaping was not installed or has subsequently been removed. As part of the subject amendment request, the applicant has submitted a revised landscaping plan that as conditioned meets the requirements of the original permit as it relates to the subject residence. With conditions requiring submission of final deck and landscape plans that have been revised to satisfy the concerns of the Department of Fish and Game, the proposed development is consistent with the Coastal Act and certified LCP.

The proposed development occurs within the City of Encinitas's coastal development permit jurisdiction. As such, the City has reviewed and approved the proposed development under a separate coastal development permit (Ref. 04-078 CDP) with conditions. The local coastal development permit was appealable, however, no appeals were filed. In particular, Commission staff did not believe an appeal was necessary at the time since the local decision was conditioned with, among other things, a requirement that the applicant first receive approval from the Coastal Commission of an amendment to Coastal Commission permit # 6-88-535 to allow development to occur within the deed restricted area.

Standard of Review: City of Encinitas certified Local Coastal Program (LCP) and the public access and recreation policies of the Coastal Act.

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Substantive File Documents: City of Encinitas Local Coastal Program; Coastal Development Permit 6-88-535/De Remer and Coastal Permit Amendments Nos. 6-88-535-A1, A2 and A3/De Remer; City Coastal Development Permit 04-078; "Summary of Wetland Boundary Determination for 2512 San Elijo Avenue, Cardiff" by Mooney & Associates, dated 6/13/03; Letter from Dept. of Fish and Game, "Re: Dan Stone residence deck at San Elijo Lagoon, Encinitas, California" dated 2/8/05.

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I. PRELIMINARY STAFF RECOMMENDATION:

**MOTION:** *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-88-535 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of certified local coastal program and the public access and recreation policies of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**II. Special Conditions.**

The permit amendment is subject to the following conditions:

**1. The following condition replaces Special Condition #6 of the original permit in its entirety as it relates to 2512 San Elijo Avenue (Ref. Exhibit #5 for the previous version of this condition). The original Special Condition #6 as it applies to the other property at 2516 San Elijo Avenue shall remain in effect.**

**6. Revised Landscape Plan. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 6-88-535-A4**, the applicant for that amendment shall submit, for the review and written approval of the Executive Director, a revised landscape plan for the residence at 2512 San Elijo Avenue that has been approved by the City of Encinitas Fire Department. Said plan shall be in substantial conformance with the submitted plans dated December 5, 2005 by Merkel and Associates, Inc., but shall be revised to include the following.

- (a) The removal (by hand) of all pampas grass from within the deed restricted open space area,
- (b) All landscaping shall be drought-tolerant, native and non-invasive plant species (i.e., no plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site). No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized,
- (c) All planting and hand removal of pampas grass shall be completed by within 60 days after construction of the deck,

- (d) All required plantings will be maintained in good growing conditions throughout the life of the project, and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.
- (e) A written commitment by the applicant that five years from the date of the issuance of the coastal development permit amendment for the deck structure, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

The permittee shall undertake development in accordance with the approved final landscape plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Final Revised Plans. **PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 6-88-535-A4**, the applicant for that amendment shall submit, for review and written approval of the Executive Director, final plans for the deck proposed in that amendment that have been developed in consultation with the California Department of Fish and Game and approved by the City of Encinitas. Said plans shall be in substantial conformance with the submitted plans dated February 27, 2004 (as revised on July 14, 2005 and September 15, 2005) by Tom McCabe, AIA, but shall be revised to include the following:

- a. The deck shall not extend more than 2 feet south of the existing concrete pylons that are proposed as foundation support of the deck.
- b. If a glass railing is proposed around the deck, the glass shall be tinted.
- c. The color of the deck shall be restricted to a color compatible with the surrounding environment (earth tones) including shades of green, brown, and gray, with no white or light shades and no bright tones except as minor accents.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Deed Restriction. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-88-535-A4), the applicant for this amendment shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property

4. Prior Conditions of Approval. All other terms and conditions of the original approval of Coastal Development Permit #6-88-535, as amended, not specifically modified herein, shall remain in full force and effect.

### III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The original project involved the construction of two residential homes on steep slopes adjacent to San Elijo Lagoon, an environmentally sensitive habitat (ref. CDP 6-88-535/De Remer). Special Conditions of approval for the residential developments included a requirement to deed restrict an open space area approximately 75 to 100 ft. in width between the residences and the wetland of San Elijo Lagoon. The applicant subsequently recorded the deed restriction. The open space deed restriction “prohibits any alteration of landforms, removal of vegetation or erection of structures of any type, . . . without the written approval of the Coastal Commission or its successor in interest.” The subject amendment essentially involves a request for written approval from the Coastal Commission to allow construction of a deck within the open space. Thus, the open space deed restriction area is not proposed to be revised.

In addition, special conditions of approval for the residences included a requirement to revegetate and landscape the area between the homes and the wetlands. Some of the revegetation/landscaping was authorized to occur within the deed restricted open space area. The applicant was required to remove invasive, non-native plants and to re-plant with drought-tolerant native plants. In addition, the applicant was required to plant trees and other landscaping along the southern perimeter of the buildings to break-up the façade of the buildings and screen the buildings from public views from within the lagoon and other public areas such as Highway 101 (Ref. Special Condition #6 of CDP

#6-88-535). In addition, the permit was conditioned to require that the residences be designed with exterior materials and colors that are earth toned so as to minimize the project's contrast with the surrounding hillside and the lagoon environment (Ref. Special Condition #7 of CDP #6-88-535). However, the homes have subsequently been painted white and the landscaping was either not placed or has been subsequently removed. There currently is no landscaping that breaks up the façade of the residences. As a result, the existing white-colored residences are highly visible from Highway 101 and other public areas.

Since the original permit approval, three additional amendments have been approved by the Commission for the subject development. In October 1989, the Commission approved an immaterial amendment to allow grading to occur during the rainy season until at least November 15, 1989 (Ref. 6-888-535-A1/De Remer). In May of 1991, the Commission approved an immaterial amendment for temporary storage of approximately 200 cu. yds. of grading material on the slope between the open space area and the home (Ref. 6-88-535-A2/De Remer). Finally, in September 1992, the Commission approved an immaterial amendment for the construction of a deck on the street side of the most southern of the two residences to allow for a secondary exit from the residence to the street (Ref. 6-88-535-A3/De Remer).

The applicant is requesting to amend the original permit to allow construction of an approximately 664 sq. ft. deck that will extend approximately 22 to 25 ft. into the open space deed restricted area. The deck will be supported in place by three existing approximately 18 ft. high, 2 to 3 ft. diameter concrete pylons that are remnants of an old kelp harvesting plant that existed on the site prior to the Coastal Act. Currently, in this location, the wetlands buffer is approximately 75 ft. wide and with construction of the deck, the wetland buffer will be reduced to approximately 50 ft. Most, if not all, of the deck will be located within the deed restricted open space area. The deck is proposed to be surrounded by an approximately 42-inch high rail. Other elements of the project as approved by the City include construction of concrete steps to extend from the west side of the residence to the deck. A 20 ft.-long retaining wall is also proposed to support a proposed 20 ft.-long, 2 ft. wide barbeque/countertop/refrigerator complex. The concrete steps, barbeque complex and retaining wall are proposed to be located outside of the open space deed restricted area between the residence and the deck and are not therefore part of the subject amendment request. The subject amendment request only involves the construction of the deck within the open space area and a new landscape plan for one of the homes.

2. Environmentally Sensitive Habitat/Wetlands. The following certified Land Use Policies from the certified Encinitas LCP apply to the proposed development:

Resource Management Policy 10.6:

The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the definitions of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the Coastal Act

and the Coastal Commission Regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

There shall be no net loss of wetland acreage or resource value as a result of land use or development, and the City's goal is to realize a net gain in acreage and value when ever possible.

[. . .]

The City shall also control use and development in surrounding areas of influence to wetlands with the application of buffer zones. At a minimum, 100-foot wide buffers shall be provided upland of salt water wetlands, and 50-foot wide buffers shall be provided upland of riparian wetlands. Unless otherwise specified in this plan, use and development within buffer areas shall be limited to minor passive recreational uses with fencing, desiltation or erosion control facilities, or other improvements deemed necessary to protect the habitat, to be located in the upper (upland) half of the buffer area when feasible.

All wetlands and buffers identified and resulting from development and use approval shall be permanently conserved or protected through the application of an open space easement or other suitable device.

[. . .]

#### Resource Management Policy 10.10

The City will encourage and cooperate with other responsible agencies to plan and implement an integrated management plan for the long-term conservation and restoration of wetlands resources at San Elijo Lagoon (and where it applies, Batiquitos Lagoon), Escondido and Encinitas Creeks and their significant upstream feeder creeks, according to the following guidelines:

[. . .]

Adequate buffer zones should be utilized when development occurs adjacent to the floodplain and sensitive habitats; 100 foot wide buffers should be provided adjacent to all identified wetlands, and 50 foot wide buffers should be provided adjacent to riparian areas. In some cases, smaller buffers may be appropriate, when conditions of the site as demonstrated in a site specific biological survey, the nature of the proposed development, etc., show that a smaller buffer would provide adequate protection; and when the Department of Fish and Game has been consulted and their comments have been accorded great weight. (Emphasis added)

[. . .]

Human uses of the wetland and adjacent areas should be compatible with the primary use of the wetland as a natural value;

(The City's certified Implementation plan contains similar policy requirements.)

The applicant is requesting to allow construction of a deck within a deed restricted open space area that functions as an approximately 75 to 100 ft.-wide natural buffer between the wetlands of San Elijo Lagoon and the existing residence. Resource Management Policy 10.10 of the certified LCP requires a 100 ft. buffer adjacent to wetlands, but allows for a smaller buffer, if it can be documented that a lesser buffer would provide adequate protection based on consultation with the Department of Fish and Game. In approving the residential structures in 1989, the Commission found that the buffer was necessary to prevent future impacts to the environmentally sensitive habitat of the lagoon. Along with requiring revegetation of the site using native plants and the removal of invasive, non-native plants, the project was designed to assure that future impacts to the wetland resources would be effectively mitigated. The current applicant is requesting permission to construct an approximately 664 sq. ft. deck that extends approximately 22 to 25 ft. into the 75 to 100 ft. wide wetland buffer.

The applicant has performed an updated wetlands delineation for the area surrounding the residence and open space area ("Summary of Wetland Boundary Determination for 2512 San Elijo Avenue, Cardiff" by Mooney & Associates dated 6/13/05). This report identifies that the existing subject residence is located from between 75 ft. and 130 ft. from wetlands. The deck is proposed to be sited on the southwest side of the property in proximity to the closest identified wetlands, i.e., the wetlands that are approximately 75 ft. from the residence. The Department of Fish and Game (DFG) has reviewed the development request and the wetlands delineation and has written a letter accepting a reduced buffer at this location with requirements that the deck not extend more than 2 ft. south of the pylon foundations, that if glass is used for the 42-inch high rail surround the deck that it be tinted to make it more visible to birds and that any lighting be of low intensity and directed away from the lagoon (Ref. Exhibit #6). In addition, the letter requests that pampas grass be removed from within the wetland buffer. The City's LCP, as cited above, does allow for a reduced buffer after consultation with DFG and in this case it has been determined that a reduction of the buffer to accommodate the installation of the deck, as conditioned by DFG, will continue to afford adequate protection to the nearby wetlands. This is particularly true since the deck will be constructed over three existing, approximately 3 ft. diameter, 18 ft. high concrete pylons that have existed in this location prior to the Coastal Act and, therefore, represents an area that does not currently function completely as vegetated buffer area. In addition, as identified by the DFG's letter, the proposed deck will be located at an elevation of approximately 18 ft. above the wetlands such that the difference in topography makes a reduced buffer more acceptable.

As noted above, although the DFG has accepted the applicant's request to construct the deck within the deed restricted open space area, it has done so with the understanding that the deck not extend more the 2 feet south of the concrete pylon foundations, the

approximately 42-inch-high railing be tinted to make it visible to birds, lighting be of low intensity and directed away from the lagoon, and that pampas grass be removed within the wetlands buffer. Only if these conditions are satisfied can the Commission find the proposed deck within the deed restricted open space is consistent with the wetland protection policies of the LCP which allow for a reduced wetlands buffer if found acceptable by DFG.

The conditions of this amendment include Special Condition #3, which requires the submission of final plans for the deck construction that have been approved by the City of Encinitas and that have been revised to reflect that the deck will extend no more than 2 ft. south of the existing concrete pylons that will be used for the deck's foundation. The applicant has submitted a revised landscape plan for the residence which makes use of native plants that will be of sufficient height and placement to meet the screening requirements of the original permit, however the plan does not include removal of the pampas grass from within the open space area as required by DFG. Since the deck can only be authorized within the open space area per the requirements of DFG, Special Condition #1 of this amendment modifies and replaces the underlying Special Condition 6 (as it relates to the subject property owner) to require the submission of a final landscape plan approved by the City of Encinitas to reflect that the proposed landscaping has been revised to include removal of all pampas grass from within the open space deed restricted area. (The original permit with Special Condition #6 is attached as Exhibit #5.) The condition includes the requirement of Fire Department approval of the landscape plan to assure that the plan does not conflict with any brush management requirements of the home. Finally, Special Condition #4 has been attached to require the applicant to record a deed restriction against the property so as to notify all future property owners of the terms and conditions of approval to which they will also be responsible to adhere to.

Since the proposed deck will be located on existing pylons, will not result in any direct or indirect impacts on native upland or wetland habitat and has been reviewed and found to be acceptable by the Department of Fish and Game in its proposed location, the proposed amendment request for the construction of a deck within the deed restricted open space area is, as conditioned, consistent with the City's LCP provisions relating to wetlands protection.

3. Protection of Viewsheds. Resource Management (RM) Policy 4.6 of the City's certified LUP requires that:

The City will maintain and enhance the scenic highway/visual corridor viewsheds.

In addition, RM Policy 4.7 requires:

The City will designate the following view corridors as scenic highway/visual corridor viewsheds:

. . . San Elijo Ave. (and Hwy 101) south of Cardiff Beach State Park to Santa Fe Drive . . .

In addition, RM Policy 4.8 states that:

It is intended that development would be subject to the design review provisions of the Scenic/Visual Corridor Overlay Zone for those locations within Scenic View Corridors, along scenic highways and adjacent to significant viewsheds and vista points with the addition of the following design criteria:

[ . . . ] Development that is allowed within a viewshed area must respond in scale, roof line, materials, color, massing, and location on site to the topography, existing vegetation, and colors of the native environment.

The original permit for the construction of the homes required that the visual impacts of the residences be mitigated by the planting of effective landscaping screening along the southern perimeter of the homes and by restricting the colors of the homes to earth tones. Both residences are located on a slope overlooking San Elijo Lagoon, Highway 101 and Cardiff State Beach. As such the homes are highly visible by motorists and beachgoers. Although required by coastal development permit #6-88-535, both property owners have failed to plant trees and other landscaping along the southern perimeter of the residences to break up the façade of the homes and have painted their homes white in apparent violation of the permit. The LCP policies cited above clearly require that the viewshed along San Elijo Drive at this location overlooking the lagoon and ocean be protected. In compliance with the landscaping condition of the original permit, the applicant in 1989 submitted a landscape plan (subsequently approved by the Executive Director) for the property that including landscaping of the area now proposed for the deck. However, either the original applicant failed to plant the landscaping or it was subsequently removed. In any event, unless new landscaping that meets the intent of the original permit, i.e., to sufficiently break-up the façade of the residence to lessen its visual prominence, is installed elsewhere on the site, the construction of the deck might have precluded sufficient landscaping from eventually being installed. As part of the subject amendment request, the applicant has submitted a new landscape plan for Commission approval that provides for effective screening of the subject residence through the use of native vegetation of sufficient height to be located along southern perimeter of the home and that is located outside of the area proposed for the deck. Therefore, since the area proposed for the deck is no longer necessary for landscaping purposes in terms of visual mitigation for the home, the construction of the deck will not prevent the required landscaping from occurring.

The proposed deck by itself does not necessarily raise significant visual concerns since it will be located at a lower elevation than the residence and is largely blocked visually by the railroad track berm that crosses San Elijo Lagoon. The deck is proposed to be a wooden deck with glass railing approximately 42 inches high. As previously stated, DFG is recommending that the glass be tinted to make it visible to birds that otherwise might not see it and might fly into it. Although the wooden deck and glass railing is unlikely to be

seen from public areas, to assure there is no potential of adverse visual impacts associated with its construction, Special Condition #7c requires that the deck only be colored with earth tones compatible with the surrounding natural environment.

Because the applicant is proposing significant native landscaping to satisfy the landscaping requirements of the original coastal development permit and the deck itself will not result in adverse visual impacts, the proposed development will be consistent with the visual resource policies of the LCP.

4. Public Access. The project site is located on the south side of San Elijo Avenue, overlooking San Elijo Lagoon, Highway 101 and Cardiff State Beach. San Elijo Avenue in this location is designated as the first public roadway. As the proposed development will occur between the first public roadway and the sea (San Elijo Lagoon in this case), pursuant to Section 30.80.090 of the City's LCP and Coastal Act section 30604(c), a public access finding must be made that such development is in conformity with the public access and public recreation policies of the Coastal Act.

The proposed development is located adjacent to San Elijo Lagoon but public trails across the site toward the lagoon do not currently exist and none are currently planned at this location. Public access and recreational opportunities, in the form of hiking, do exist in the area, providing access into San Elijo Lagoon Ecological Reserve and Regional Park. Access to the trail system is available at the San Elijo Lagoon Visitor Center, which is located within ¼ mile of the subject site. Access to the shoreline from this site through the lagoon also does not exist and would not be appropriate from this site since the Amtrak/Coastal Rail train tracks lie between this site and the shoreline. The proposed amendment request would not, therefore, impede access to the lagoon or to any public trails. Therefore, the proposed development would have no adverse impacts on public access or recreational opportunities, consistent with the public access policies of the Coastal Act.

5. Violation of Coastal Act. The existing residential developments were approved by the Commission in 1989 with special conditions that required the use of earth tones in the materials and coloring of the residences and extensive landscaping including trees along the southern perimeter of the residences. In an apparent violation of the permit, the homes were colored white and no trees or other effective landscaping were installed along the southern perimeter of the homes as required to break up the façade of the buildings. One of the two property owners has submitted the subject permit amendment, which includes a new landscape plan for his residence at 2512 San Elijo Avenue, which, as conditioned, has been found to be consistent with the intent of the landscaping condition of the original permit. However, the applicant has not proposed re-coloring of his residence to conform to the requirements of the original permit that involve the use of earth tones, and the other residence at 2516 San Elijo Avenue is not a party to this subject amendment. These matters will be handled through a separate enforcement action.

Although a violation of coastal development permit 6-88-535 has occurred, consideration of this amendment application by the Commission has been based solely upon the

policies and provisions of the certified City of Encinitas LCP as well as the public access and recreation policies of Chapter 3 of the Coastal Act. Review of this permit application does not constitute a waiver of any legal action with regard to the alleged violations.

6. Local Coastal Planning. The City of Encinitas has a certified LCP and has been issuing coastal development permits for its areas of jurisdiction since 1995. The subject site is zoned and designated for residential use in the certified LCP. The proposed request to allow development within the deed restricted open space area, thus creating a reduced wetlands buffer acceptable to the Resources agencies is consistent with the intent and goals of the wetlands protection policies of the LCP. While the City of Encinitas has already approved the subject project and found it to be consistent with the LCP, its approval was conditioned on the applicant receiving approval by the Coastal Commission of an amendment to the original permit for the residence, which prohibited development within the open space area (Ref. 6-88-535/De Remer). The proposed landscaping plan is consistent with the visual resource protection policies of the LCP. Therefore, the Commission finds that the subject proposal would not prejudice the ability of the City of Encinitas to continue to consistently implement its certified LCP.

7. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the visual resource and wetland protection policies of the certified Local Coastal Plan and the public access and recreation policies of the Coastal Act. Mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.